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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 807,861	07 03:2001	Gerhard Pflueger	1586	6243

7590 05 30 2003

Striker Striker & Stenby
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Huntington, NY 11743

EXAMINER

NGUYEN, TRAN N

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 05-30-2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/807,861

Applicant(s)

Pflueger, et al

Examiner

Nguyen, Tran N

Art Unit

2834



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Apr 23, 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. Applicant's reply has overcome the following rejection(s): _____

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment (1)

6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 15-28

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. Other: _____

Nguyen, Tran N
NGUYEN, TRAN N
PRIMARY EXAMINER
ART UNIT 2834

ATTACHMENT (1)

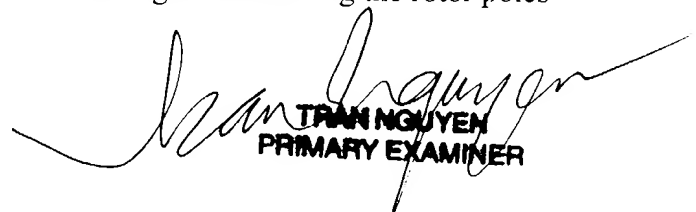
The applicant argues that the retaining means of Sakane is radially encircled by all of the claw poles, or if one views the axis of the shaft 2 of Sakane and lays a cross section through the ring, so that the cross section is orthographic to the axis, it can be seen that all of the claws are radially outside of the ring 3c. The retaining means (3c) of Sakane clearly is not disposed to any extent "at least partly in the claw pole interstices", as define the present invention.

In response to this argument, the claim recites the interstices as "*claw pole interstices (36) are located in the circumferential direction between the first claw poles (28) and the second claw poles (29)*". Thus, the pole interstices are understood as space regions between the two interlaced poles (28, 29). Each of these space regions has circumferential boundaries that are set by the two poles' flank (40). However, the radial bonderies are not limited, or at least not limited by any claimed language in the claim. The Sakane's retaining means (3c) is encircled by all the claw poles and the poles appear to be outside the remaining means (3c). However, since the pole interstices are understood as a space regions without limited radial bonderies if one view the structure in the radial direction with respect to the rotary axis, Sakane's retaining means (3c) is radially disposed at least partially in the claw pole interstices.

The applicant's argument seems to rely on the features that the present invention's ***retaining means is disposed at least partially in the claw pole interstices and partially in contact with the poles' flank (40) as shown in figure 2, 8, 10, 12, 15-17.*** However, these features are not recited in the claim.

Regarding the argument about the Kusase ref, in Kusase, a holding means (magnet holder 12) is disclosed, which, however, only serves for retaining the permanent magnets 11. The holding means itself is only clamped by form-locking between the pole wheel halves. Any attachment by means of material engagement or other attachment means is not provided by Kusase. The pole wheel halves are only connected to one another via the rotor shaft. Thus, claim 15 of the present application is not anticipated by the Kusase reference.

The applicant is correct when stating that claim 15 is not anticipate by the Kusase ref, since the Kusase ref is applied under 35 USC 103 rejection, as a secondary ref in combinc with Sakane ref, claim 15 is not rejected based soly by Kusase ref. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case, the essential teaching of the Kusase's magnet holding means which can be applied to modify the Sakane's retaining means for serving both retaining the rotor poles and holding the magnet therebetween.


TRAN NGUYEN
PRIMARY EXAMINER